

No. 75-1493

IN THE
Supreme Court of the United States

OCTOBER TERM, 1975

ARCH A. MOORE, JR.,
Appellant,
v.

STATE OF WEST VIRGINIA EX REL. MELTON MALONEY,
AND JAMES MCCARTNEY, SECRETARY OF STATE
OF THE STATE OF WEST VIRGINIA,
Appellees.

**On Appeal from the Supreme Court of Appeals
of the State of West Virginia**

MOTION TO ADVANCE

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Pursuant to Rule 35 of the Rules of this Court, appellant, through his counsel, respectfully moves the Court for an order advancing the above entitled cause so that it may be heard and decided promptly.

The judgment of the Supreme Court of Appeals of West Virginia was entered on April 6, 1976. The Notice of Appeal was filed on April 7, 1976. The Jurisdictional Statement will be filed within eight days after that date.

The ultimate question involved in the case is whether the appellant's name can be on the ballot for the primary election which will be held in West Virginia on May 11, 1976. If the appellant is to have effective relief, the decision of this Court must come far enough before that date to make it possible to prepare appropriate ballots.

The need for prompt decision in such cases has often been recognized. It has been observed that "The nature of typical election laws is such that only a limited time is available for judicial review," and that "generally advancement has had to be requested in cases of this nature." *Shub v. Simpson*, 340 U.S. 861, 862 (dissenting opinion of Warren, C.J., and Black and Douglas, JJ.)

In order that the case may be heard so that the appellant's contentions will not be foreclosed without a hearing, it is respectfully moved that the Court advance the case for hearing, and that it fix an expedited briefing schedule. For this purpose, the appellant is willing to have the Jurisdictional Statement, which is being filed simultaneously with this motion, regarded as his brief on the merits.

The undersigned is authorized to state that appellee James McCartney, Secretary of State of the State of West Virginia, has no objection to this motion, and waives his right to file any response.

Respectfully submitted,

ERWIN N. GRISWOLD
Attorney for Appellant

April 15, 1976